Calendar No. 862

97TH CONGRESS, 2d Session } SENATE { REPORT No. 97-479

ALASKA RAILROAD TRANSFER ACT

JUNE 22 (legislative day, JUNE 8), 1982.—Ordered to be printed

Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

[To accompany S. 1500]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1500) to provide for the transfer of the Alaska Railroad to the State of Alaska, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill do pass.

PURPOSE OF THE BILL

The bill, as reported, provides for the orderly transfer of the Alaska Railroad from the Federal Government to the State of Alaska. Specifically, the Secretary of Transportation is authorized to transfer the railroad by one deed of conveyance upon ensuring that the State will continue rail service; assume certain liabilities and obligations; and protect the interests of the employees during a specified transition period, and thereafter. The legislation would facilitate the transfer of the railroad lands by providing for the conveyance of the track right-of-way in fee and an expedited process for adjudicating Native and other third party claims of valid existing rights to other railroad lands. Also, the legislation is intended to ensure that upon transfer the State will essentially operate the railroad as any other railroad in interstate commerce. This legislation represents an appropriate balance of interests intended to ensure that the transfer takes place equitably and expeditiously, and with minimal disruption to those affected.

BACKGROUND AND NEEDS

Congress authorized the construction of the Alaska Railroad pursuant to the Alaska Railroad Act of 1914 in order to provide for the

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transportation and development needs of the Territory of Alaska. The 525-mile railroad has been in operation since 1923, and is administered by the Secretary of Transportation. Today, the railroad serves as a vital element of the transportation system of the State of Alaska. The railroad links Fairbanks and Anchorage, the State's two major metropolitan centers, with freight and passenger service and connects the interior of the State with Pacific Ocean ports on the southern coast. During the last decade when the Alyeska Pipeline was being constructed from Prudhoe Bay to Valdez, the railroad played a critical role in transporting pipe, heavy equipment and other vital construction materials. The railroad connects Alaska with the "lower 48" and Canadian rail systems via float barges operating to and from Whittier.

The continued desirability of Federal ownership and administration of the Alaska Railroad has been a subject of considerable debate for many years. There are several reasons for this.

First, it is clear that while the railroad served the interests of the Federal Government in the past by opening up the Territory of Alaska and providing transportation for government cargo, today it exists primarily for the benefit of residents and shippers in the State of Alaska, and tourists who visit the State. In fact, nearly three-fourths of the present traffic volume on the railroad moves internally in Alaska.

Second, since Alaska became a State in 1959, its ability and interest in providing for its own transportation needs have changed considerably. Since 1959, other Federal transportation facilities, such as airports and highways, have been transferred to the State. Further, the State is expected to experience a period of further growth in the future as newly discovered deposits of oil, natural gas, coal, and other natural resources are developed. In order to ensure that the railroad plays an essential role in sustaining this growth, the railroad's operations should be improved and expanded. Such improvement and expansion are matters primarily of State concern.

Third, there is a consensus that the Federal Government should not continue to control those activities which might better or more appropriately be controlled by State and local governments or the private sector. This is especially true today when extreme budgetary constraints are forcing the Federal Government to scrutinize all of its activities. In this regard, it should be pointed out that while the Alaska Railroad is structured to operate on a self-sustaining basis to the greatest extent possible, it has not been a profitable enterprise, except for those periods when freight traffic levels have been especially high. As a result, Federal appropriations of over $200 million have been provided since 1923 primarily for capital and maintenance purposes. Over $50 million of this has been appropriated in the last 7 years to continue the railroad as a viable entity during a period of declining traffic following the completion of the Alaska Pipeline. Transfer of the railroad to the State would reduce Federal spending by eliminating such appropriations. In addition, the Committee believes that such a transfer would be consistent with the pending transfers of Conrail's freight and passenger operations as provided for in legislation passed last year. It is also in line with past acquisitions of intrastate railroads by States, such as Vermont and West Virginia.

For all of the above reasons, the Committee believes it is appropriate for the Federal Government to transfer the Alaska Railroad to the State of Alaska. Further, the Committee believes that such a transfer should be completed on an expedited basis and should encourage the State to establish a suitable framework to continue operating the railroad and to assume the Federal Government's rights and obligations for the railroad. The transfer should also undertake to resolve a number of outstanding questions concerning land claims to the Alaska Railroad.

In this regard, a number of claims have been pursued on the railroad properties through the land disposal laws of the United States, and particularly through the Alaska Native Claims Settlement Act of 1971 (ANCSA). Further, there are differing interpretations regarding the nature of the Federal interest in the right-of-way created under the March 14, 1914 Alaska Railroad Act.

Congress sought to resolve Alaska Native claims through ANCSA in 1971 and subsequent perfecting amendments in each Congress since 1971. The act set up private Regional and Village Corporations and transferred selection rights to approximately 44 million acres of Federal and State lands in satisfaction of aboriginal claims. Section 3(e) of the act defines "public lands" to be selected as "all Federal lands and interests therein located in Alaska except . . . the smallest practicable tract, as determined by the Secretary, enclosing land actually used in connection with the administration of any Federal installation." Regulations interpreting the provision were promulgated and finalized on October 22, 1980.

Pursuant to the act and the regulations, six Alaska Native Village Corporations have sought selections on the railroad right-of-way and attendant properties. Out of approximately 38,000 acres of railroad lands, roughly 3,000 acres have been claimed by the villages on over 180 miles of right-of-way and upward of 3,700 acres of additional railroad properties.

Further, Cook Inlet Regional Corporation (CIRI) has sought extensive railroad acreage pursuant to a "Terms and Conditions Agreement" with the Federal and State governments codified under its 1976 amendment to ANCSA. Other Native claims could conceivably arise through amendments to ANCSA housed in the Alaska National Interest Lands Conservation Act of 1980 (ANILCA). Although these latter claims are deemed by the Committee to have little likelihood of validity, they still present potential difficulties in arranging this transfer due to a likelihood of protracted administrative and judicial review. After reviewing these various claims to railroad properties created by amendments, to ANCSA, the Committee believes they should be barred in any legislation dealing with the transfer of the Alaska Railroad.

The problem of Native claims to Alaska Railroad properties has been of continuing concern to the Committee and the Department of Transportation (DOT). In October of 1979, Chairman Howard W. Cannon wrote Senator Henry Jackson Chairman of the Energy Committee, expressing the view of the Committee that protection of important Alaska Railroad properties from Native claims must be

assured. Moreover, the past three Secretaries of Transportation have all gone on record opposing conveyances of railroad properties to Alaska Native Corporations.

To ensure these issues are adequately addressed in the transfer process, the Committee believes that any transfer legislation should seek to balance the competing interests in the railroad properties. The fundamental objective of such legislation must be to transfer all lands required for current and future operation of the Alaska Railroad, and these lands should be transferred as free of claims as possible. At the same time, the Committee recognizes the need to protect valid existing rights on railroad lands that may not be crucial to railroad operations, and these outstanding claims should be resolved while fully protecting the operation of the future State-owned railroad. The procedural mechanisms and the substantive requirements of any such legislation should be designed to provide clarity in land status and to facilitate a smooth transition to State ownership. The Committee is persuaded that the highest interest to be protected in any transfer legislation is the delivery of an economically viable railroad to the State, which can be accomplished with adequate protection for the valid existing rights of Native Corporations or other parties claiming an interest in railroad properties.

With respect to the matter of the continued operation of the railroad, the Committee believes it is appropriate to point out that attempts have been made during past administrations to sell the Alaska Railroad to private buyers on the condition that it continue to be operated as a rail carrier. However, such buyers have only been interested in purchasing the railroad for the purpose of liquidating it. The Committee believes that it is essential that the railroad be operated as a rail carrier after its transfer in order to avoid disruption to employees, shippers and others, and to protect the Federal Government's past investment in the railroad. Further, it is apparent that the State is the only likely taker that shares this interest in the continued operation of the railroad. Under the circumstances, the Committee believes it makes sense to provide for a transfer of the railroad to the State at no cost, provided the State agrees to operate it as a rail carrier and to assume certain liabilities for the railroad's employees and shippers. Such a no-cost transfer would also help compensate the State for the fact that in taking over the railroad it would have to assume substantial financial obligations in the form of employee protection, deferred maintenance, and the cost of subsidizing passenger services. These obligations have been estimated at at least $100 million. Further, such a no-cost transfer would be consistent with the pending transfer of Conrail's commuter and intercity rail passenger operations, and with the past transfer to the State of Alaska of other federal transportation facilities, including highways and airports.

LEGISLATIVE HISTORY

On July 7, 1981, Senator Stevens introduced on behalf of himself and Senator Murkowski S. 1500, a bill to provide for the transfer of the Alaska Railroad to the State of Alaska. On August 10th and 11th, the full Committee held hearings on the bill in the State of Alaska. The full Committee met in open executive session on May 11, 1982 to dis-

cuss and mark up S. 1500. On the same day, the Committee by unanimous vote ordered S. 1500, as amended, favorably reported.

Summary of Bill

TRANSFER

As stated earlier, the Committee believes that the transfer of the Alaska Railroad from the Federal Government to the State is appropriate and has approved legislation which would implement the transfer with minimal disruption. The railroad is of primary benefit to the State, and the Committee believes that a transfer would provide the State with the opportunity to ensure that the railroad remains responsive to the needs of Alaska. Furthermore, a transfer would realize certain savings for the Federal Government and would remove its involvement in the operation of the railroad, which is no longer necessary or appropriate.

The legislation, as reported, provides for a transfer to the State or a State-designated entity. This provision is intended to afford the State with the flexibility to decide how the railroad is to be managed and operated once it is transferred.

The transfer is to occur without any direct monetary compensation by the State. Instead, the legislation provides for a transfer subject to certain conditions relating to continued operation as a rail carrier; assumption of its liabilities and obligations; and protection of affected employees. As previously stated, the Committee believes that direct compensation by the State would be inappropriate for several reasons. First, the Committee believes that the State is the only entity that is likely to take over the railroad and operate it as a rail carrier. Second, the state is being required to assume substantial financial obligations in taking over the railroad. Third, a no-cost transfer is consistent with past transfers of transportation facilities to the State and the transfer of Conrail's passenger operations to the public sector.

The Committee supports the above-mentioned transfer conditions as representing a sufficient protection of the prior federal investment in rail service while at the same time ensuring that Federal ownership and operation are terminated. In this regard, the Committee wants to ensure that important rail service is maintained, and has provided for a reversion to the Federal Government, or payment by the State, in the event that continued operation of the railroad is prevented. Also, the legislation provides that if the Secretary of Transportation is not able to certify a transfer to the State of Alaska, the rail properties would be otherwise disposed of, with preference being given to a prospective owner committed to continuing rail service.

In addition, the Committee believes that the conditions for transfer would ensure continued service with minimal disruption to shippers, employees, and affected areas. Thus, the Committee deems it appropriate for the State to assume certain liabilities, including employee obligations and small tort claims. The Committee notes that these conditions are consistent with the approach taken in prior legislation approved by Congress relating to the transfer of Conrail's freight operations to the private sector and its passengers operations to the public sector.

EMPLOYEE PROVISIONS

In approving this legislation, the Committee wants to ensure that a change in ownership is smooth and equitable for the employees. The stataus of current Alaska Railroad employees presents special problems in the face of state ownership; they are Federal employee, with rights and benefits not necessarily equaled under the State employment system. To ensure that such accrued rights and benefits are not unjustly lost, the Committee believes that the State, as owner of the railroad, should assume responsibility for assuring the protection of those employees transferred to the State-owned railroad until new employee arrangements can be made. Furthermore, retention of the employees is vital to the continuation of the railroad, and thus it is in the interest of the State to provide the protections included in the reported bill to create a climate in which the employees would be willing to transfer to the State-owned railroad.

The legislation provides for a transition period of 2 years following the date of transfer, during which time the status-quo is to be essentially maintained. Those employees who choose to work for the State-owned railroad would be retained at their present salary levels and positions under existing collective bargaining agreements. In addition, the State during this period would be obligated to give credit for certain Federal benefits, and would be responsible for severance pay to those transferred but terminated during this period. The Federal Government, of course, would continue to be responsible for those employees who choose not to transfer. The Committee believes that a 2-year period is sufficient to minimize any uncertainties which the employees might fear, and also to allow time to incorporate the transferred employees into the State-owned railroad.

At the same time, the Committee believes that it is important for the State to have control over the shaping of its work force. Thus, the State would be able to reassign employees during this 2-year period. Also, the legislation provides that existing collective bargaining agreements would be inoperative at the end of this transition period: the Committee expects that these agreements would be renegotiated during this 2-year period and that employee benefits, excepting retirement, would thereafter be determined through contract negotiations. In addition, under this legislation, the railroad officers would be treated somewhat differently than the employees: the current top five officers would not have to be retained in their present positions. The Committee believes that the State should have the flexibility to choose its own management as soon as possible after the transfer, and to begin to tailor its work force and employee benefits to the needs of the railroad under its direction.

To further protect the interests of the employees, the reported bill ensures the continuation of some type of retirement system after the transfer for those currently covered by the Federal program. Significant monetary contributions have been made into the Federal program on behalf of these employees, and the legislation ensures that accrued benefits are kept alive. For those employees who transfer to the state-owned railroad, whether or not they are terminated during the 2-year transition period, the Federal program would continue to cover them,

but the State would become the contributing employer and would remain responsible for dispensing the benefits. Those who do not transfer would be entitled to the Federal benefits, the payment of which would remain the obligation of the Federal Government.

However, to allow the State flexibility and consistency in dealing with the employees transferred to its railroad, the legislation provides the State with the option during the 2-year transition period of placing these employees under an equivalent state retirement program. Under this scenario, the contributions made into the Federal fund would be transferred to the State fund. This option, however, would not apply to those transferred employees who are to retire within 5 years of the transfer, if they choose to remain under the Federal system.

The Committee believes that this legislation provides certainty important to the employees: it maintains essentially a status-quo for a specified time and ensures the retention of accrued Federal benefits. At the same time, it affords the State the flexibility which it needs to ensure an efficient rail operation under its leadership.

TRANSITION

The Committee understands the concerns of the State about the uncertainties surrounding the transfer. Accordingly, the legislation directs the State and the DOT to compile a report within 6 months of enactment, setting forth the lands to be transferred and the obligations to be assumed. The information on the lands would form the basis for the identification of the rail properties in the deed of conveyance, and an assessment of the obligations would assist the State in preparing for ownership.

In further preparation, the State would have access during this period to railroad properties and records, and the DOT would be required to ensure that the railroad accounting practices are adequate to provide the necessary information to the Interstate Commerce Commission (ICC). To ensure that there is no material change in the assets which the State expects to acquire, the legislation also provides that between enactment and transfer the railroad would not take certain actions affecting its properties without concurrence of the State. It is intended that these requirements facilitate an orderly and expeditious transfer.

DISPOSITION OF RAILROAD LANDS

Throughout its deliberations on this legislation, the Committee has given careful consideration to the many complex issues surrounding the status of the Alaska Railroad lands. As indicated earlier, the Committee deems it essential that the legislation ensures a smooth and timely transfer of the railroad to the State and the continued operation of the railroad. At the same time, the Committee remains concerned about a fair and expeditious resolution of Native and other third party claims to portions of the railroad properties. The Committee believes that the reported legislation strikes an appropriate balance of these interests.

Under the transfer provisions of this bill, the Federal Government upon certification would transfer to the State all the rail properties by

one deed of conveyance, subject to certain statutory exemptions. This deed is to convey legal title and possession to the State, subject to valid existing third-party rights and reconveyance in satisfaction of those rights. The Committee wants to ensure that the State is able to assume operation of the railroad immediately upon transfer.

This deed is to include a description of the properties to be transferred. The Committee understands the concern of the State in knowing the status of the properties it is acquiring. The Committee is also aware that survey descriptions of the railroad right-of-ways are unavailable and that less specific descriptions would have to be included in the deed. The Committee expects the Departments of Interior and Transportation to work closely with the State to identify as fully as possible all rail properties and prepare appropriate legal descriptions for inclusion in the deed.

A transfer by one deed of conveyance presupposes the parties' ability to identify and agree upon the contents of the rail properties. The preparation of the report required during the transition period is intended to provide a mechanism for reaching a mutual understanding on this matter. If, however, the parties are not able to identify all the rail properties or disagree on whether certain properties are to be included in the deed, the deed and report requirements are not to stand as impediments to timely transfer. Transfer could be made subject to a latter reformation of the deed by appropriate means if additional property should need to be transferred or more specific descriptions required. This legislation is intended to facilitate a timely and orderly transfer, and its implementation is to be understood in light of this objective.

Under the reported bill, the deed would convey to the State a fee interest in the 200-foot strip comprising the railroad track right-of-way, amounting to roughly 12,000 acres. This fee estate is recognized by the Committee to be the current interest of the Alaska Railroad derived from common practice and authorized under section 1 of the March 12, 1914 Alaska Railroad Act. The other rail properties would be conveyed subject to valid existing third-party rights.

In this regard, earlier legislation considered by the Committee included provisions which would have extinguished third-party property claims for which title has not vested, including those made by Native Corporations under the Alaska Native Claims Settlement Act (ANCSA). These provisions were based on the legal position as set forth in a letter to the Committee from the Department of Justice dated December 16, 1981, which states that such extinguishment would not be an unconstitutional taking under the Fifth Amendment since no property rights have vested. During the hearings on this original legislation, the Committee received testimony raising concerns about these provisions as frustrating the intent of ANCSA, and also disputing their constitutionality.

The Committee considered these concerns in light of its continuing interest in ensuring that the State receive properties which are compatible with continued operation of rail service. The reported bill is the result of these deliberations and strikes a sound balance of interests. It ensures conveyance of the track right-of-way in fee so that the State can continue to operate the railroad. At the same time, the legislation

allows for a determination of the validity of Village Corporation claims on other rail properties.

To ensure that valid existing claims to railroad properties are adjudicated and satisfied as soon as possible, the legislation would provide for an expeditious determination by the Department of Interior (DOI) and the courts of such claims, and for subsequent reconveyance of properties for claims proven valid through the expedited determination. The Committee notes that this process is similar to that adopted in Section 906 of the Alaska Lands Act to expedite conveyance to the State of its land entitlement under the Alaska Statehood Act. The process provided in the reported bill reaffirms the ongoing responsibility which DOI has under ANCSA to expeditiously adjudicate these claims.

In this regard, the reported legislation specifically directs the agency within 1 year of date of enactment to make determinations under section 3(e) of ANSCA, which identifies public lands available for selection by Alaska Natives. That section provides that with respect to Federal installations, of which the railroad is one, the Secretary of Interior is to determine the "smallest practicable tract" actually being used for the administration of such an installation. If certain properties are determined to be part of this tract, they are not public lands as defined under the Act and thus not subject to third-party claims.

The reported bill directs DOI to make the determination of the smallest practicable tract within this 1-year period and also provides for expedited judicial review of any such decision. The Committee believes that such claims can be adjudicated by the Secretary of Interior within 1 year. It has been over 10 years since the passage of ANCSA and nearly a year and a half since the promulgation of the final 3(e) regulations. Considering the concentrated effort by State and Federal agencies and by affected Native Corporations to determine the land status of the railroad properties, 1 year is not an unreasonable time frame. Further, it is the belief of the Committee that immediate discussions among the Departments of Interior and Transportation, the State of Alaska and Native claimants should go forward to assist in the ultimate settlement of this issue.

The Committee expects DOI to apply the section 3(e) regulations in making determination of smallest practicable tract. The Committee notes that during the deliberations on these regulations, concerns were raised about their impact on the ability of the railroad to continue to operate as envisioned and authorized by its enabling legislation. Letters were written by the Committee and the DOT voicing such concerns.

The reported legislation would not change the section 3(e) regulations as finally promulgated by DOI. However, the legislation does reflect the continuing concern of the Committee that those lands important to the operation of the railroad remain part of the railroad. Specifically, the legislation directs the Secretary of the Interior to consider its findings and policies, including the belief of the Committee that a transfer of the railroad right-of-way in fee simple is essential to the continued operation of the railroad, and that the actual physical characteristics of the railroad (e.g., the right-of-way and reserves) be

maintained to the extent required to assure the transfer of an economically viable railroad operation.

The Committee believes that title to the railroad lands must be cleared and that the State should be able to assume operation of the railroad at the earliest date allowed under this legislation. In approving the legislation, the Committee anticipates this result without any inappropriate infringement upon the valid rights of the Natives and other third parties.

STATE OPERATION

Section 8 of the bill governs the application of various Federal and State laws to the State-owned railroad after its transfer to the State. The Committee believes that it is necessary to clarify the application of these laws, because as a federally owned and operated entity, the Alaska Railroad is now exempt from many of these laws. In general, the Committee believes that in the future, the State-owned railroad should be treated like all other railroads subject to Federal and State laws. However, at the same time, we are aware of the need on the part of the State to have flexibility in setting up and operating the railroad. Section 8 reflects these concerns.

This section specifically provides that the State-owned railroad shall be subject to the jurisdiction of the ICC and to other Federal laws. Currently, the Alaska Railroad is subject to limited ICC jurisdiction, which was invoked pursuant to a 1963 Presidential Executive order.

During the Committee's consideration of S. 1500, some of the Alaska Railroad's competitors recommended that in addition to normal ICC procedures, special subsidy and pricing limitations be applied to the State-owned railroad to protect its competitors from unfair subsidized competition. The Committee rejected these recommendations for several reasons.

First, ICC studies of Alaska Railroad rates submitted to Congress in 1981 showed that all of its interstate rates were fully compensatory and covered all of the railroad's costs, including an imputed cost of capital. Since these studies indicate that Federal support has not been used to compete unfairly with other carriers, the Committee does not expect any state support of the railroad to be used to compete unfairly with its competitors.

Second, the Committee believes that the State has the greatest interest in fostering competition among the carriers serving the State. This includes encouraging all carriers to provide services to shippers and consumers at the lowest possible cost. It would not be in the interest of the State to take actions that would result in the loss of competition.

Third, the Committee believes it would be inappropriate for the Federal Government to dictate to the State how it should set up and operate the railroad beyond what generally applies to all rail carriers under existing law.

The Committee believes that existing ICC regulations provide sufficient recourse to the railroad's competitors if they wish to challenge the railroad's rates as too low or to challenge proposed exemptions from the Interstate Commerce Act and regulations. The Committee also rejects any notion that a special regulatory regime or scheme, be-

yond that normally applied by the ICC, ought to be imposed on the state-owned railroad. In this regard, the Committee notes that whatever the outcome of pending ICC proceedings regarding the exemption from regulation of trailer-to-flatcar (TOFC) and container-on-flatcar (COFC) service provided by the Alaska Railroad, we question the holding in *American Trucking Associations* v. *I.C.C.*, ——— F.2d ——— (5th Cir. 1981), as it may apply to the State-owned railroad.

During the Committee's consideration of the bill, questions were raised regarding the application of the Federal antitrust laws to the State-owned railroad. During markup, the Committee agreed to an amendment offered by Senator Stevens that clarified this matter.

At present, the Alaska Railroad may not be sued under the Federal antitrust statutes because federal instrumentalities cannot be sued under those statutes. *Sea-Land Service, Inc.* v. *Alaska Railroad*, ——— F.2d ——— (D.C. Cir. 1981). Senator Stevens' amendment to the section 8 provision making the State-owned railroad subject to the jurisdiction of the antitrust laws recognizes that the transfer of the railroad to the State will terminate the railroad's status as a Federal instrumentality and thereby subject the railroad to the jurisdiction of those statutes. This provision is not intended to modify existing law relating to the availability of exemptions from the antitrust laws. *Parker* v. *Brown*, 317 U.S. 341 (1943). It expressly provides that the State may invoke any exemption from the antitrust laws that may be available to the State-owned railroad. In this regard, the provision requires such state action invoking an exemption to be explicit, as is required by recent court decisions. *Community Communications Co., Inc.* v. *City of Boulder*, ——— U.S. ——— No. 80–1350 (January 13, 1982); *City of Lafayette* v. *Louisiana Light & Power*, 435 U.S. 389 (1978).

In the process of clarifying the application of the antitrust laws, the Committee rejected a recommendation that the State not be permitted to invoke any exemption authority that it has pursuant to the State government action doctrine. The Committee's rejection is based on several reasons. First, we believe that the bill, as reported, clearly favors the application of the antitrust laws without unduly restricting the State's ability to set up and operate the railroad as it deems most appropriate. Second, we think it would be unfair to limit the State of Alaska's actions when other States, such as Vermont and West Virginia, are free to invoke this exemption for their state-owned railroads. Finally, in view of the State's interest in fostering competition among the carriers serving the State, we seriously doubt that the competitors have reason to fear this exemption authority.

The Alaska Railroad currently is treated as subject to the Federal safety laws and regulations administered by the Federal Railroad Administration (FRA). However, the FRA has sanctioned noncompliance with its regulations in some limited areas by issuing "waivers of compliance." After the transfer, the Committee expects the same situation to prevail. In this regard, section 8 specifically provides that any waivers of compliance in effect on the date of transfer shall continue in effect. It is the Committee's understanding that any cases of noncompliance by the Alaska Railroad are currently contained in waiver memoranda. However, if this is not so, then the Committee

strongly urges the FRA to officially note these cases of noncompliance in waiver memoranda to the maximum extent possible prior to the transfer. In accepting the continuance of waivers of compliance, the Committee expects that the Alaska Railroad will be operated at an optional level of safety.

Estimated Costs

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. Congress,
Congressional Budget Office,
Washington, D.C., May 26, 1982.

Hon. Bob Packwood,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

Dear Mr. Chairman: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 1500, the Alaska Railroad Transfer Act of 1982, as ordered reported by the Senate Committee on Commerce, Science, and Transportation, May 11, 1982. The bill would allow the Secretary of Transportation to transfer the Alaska Railroad to the State of Alaska without monetary consideration to the United States.

Section 7 of the Alaska Railroad Transfer Act of 1982 allows the State of Alaska the option of providing retirement benefits to transferred federal employees through a retirement system maintained by the State. Should the state elect the option, as anticipated by the Federal Railroad Administration (FRA), all Alaska Railroad contributions and employee withholdings on deposit with the Civil Service Retirement Trust Fund would be transferred to the State of Alaska. Based on information provided by the FRA, this would equal approximately $20 million, if the transfer of the railroad were to take place on July 1, 1983. CBO estimates that the total cost impact of transferring the retirement contributions would be slightly greater than $20 million, to reflect contributions made by other federal agencies that previously employed Alaska Railroad employees.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

Alice M. Rivlin, *Director.*

Regulatory Impact Statement

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation.

The purpose of S. 1500, as reported, is to provide for the transfer of the Alaska Railroad from the Federal Government to the State of Alaska. As a condition of the transfer, the State is required to assume certain liabilities and obligations of the railroad, make arrangements

to protect employee interests, and agree to continue operating the railroad as a rail carrier. Prior to the transfer, the Secretary of Transportation and the Governor of Alaska must prepare a report for the U.S. Congress and the State legislature, which details the rail properties to be transferred and the rights, liabilities, and obligations to be assumed by the State. After the transfer, the State-owned railroad is to be subject to the same federal laws as are other rail carriers regulated by the ICC. The ICC is required to promulgate a procedure for providing an operating certificate to the state-owned railroad.

The requirements outlined above will result in some increase in economic regulation of what is now the Alaska Railroad. As a federal entity, the Alaska Railroad has not been subject to complete ICC jurisdiction. Once it is transferred to the State, it will have to file the same reports with the ICC as the other carriers do, and file an application for an operating certificate. The State will also be subject to limited paperwork requirements and costs associated with the proposed transfer of the railroad. This includes the one-time report to Congress and the State legislature. The Secretary of Transportation will be subject to similar paperwork requirements and costs.

While the state-owned railroad and the State will be subject to some increased costs and paperwork as a result of the reported bill, the Committee believes these should be weighed against the savings to the Federal Government of eliminating the DOT's responsibility for administering the Alaska Railroad and eliminating subsidies for its operations. The Committee does not believe that the reported bill will have any impact on the privacy of any individual or business.

Section-by-Section Analysis

SECTION 1.—TITLE

This section provides that the legislation may be cited as the "Alaska Railroad Transfer Act of 1982."

SECTION 2.—FINDINGS

This section states the reasons why the Committee believes that the Alaska Railroad should be transferred to the State of Alaska. An important consideration is the fact that while the railroad has served the interest of the Federal Government in the past, today it primarily serves residents and businesses in the State. Further, the transfer is consistent with the Federal Government's efforts today to transfer programs to the States whenever appropriate. Finally, the transfer is necessary in order to ensure that in the future the railroad will be operated and its services expanded to meet the needs of the State and the railroad's users.

SECTION 3.—DEFINITIONS

This section defines the major terms used in the legislation. Among those defined is "rail properties of the Alaska Railroad." This definition is important because it describes the rail properties that will be transferred to the State. As defined by the legislation, the term rail properties means all right and title to real and personal properties

held by or for the Alaska Railroad as of the date of enactment with some limited exceptions. The exceptions are specified in the definition as follows: (1) the unexercised reservation to the United States in all patents for lands in Alaska as provided for the construction of future railroad rights-of-way; (2) the right of the Secretary of Transportation to exercise the power of eminent domain; (3) any money in the Alaska Railroad Revolving Fund that the Secretary and the State agree is needed to pay certain Federal obligations arising from the operation of the railroad, which are not assumed by the State; (4) certain properties that the Secretary determines with the consent of the State to be necessary to carry out Federal functions after the transfer; and (5) certain properties near McKinley Park Station that are used by the National Park Service.

The Committee believes that the definition of rail properties should be broadly construed so as to ensure that all properties used or useful for continued railroad operations, which are not expressly excluded from the definition, are transferred to the State. This includes properties that the Federal Government has removed from the unappropriated public domain for the benefit of the railroad and that are being held for railroad needs.

In view of the broad interpretation the Committee expects to be given the term rail properties, it should be noted that the exclusion specified in paragraph (D) is a narrow one. In is intended to cover only property necessary to carry out Federal functions, such as those related to Federal employment or the national defense.

This section also defines the terms "State" and "State-owned railroad." The definitions are broadly worded to give the State maximum flexibility in designating an appropriate organization for state ownership, operation and management of the railroad after the transfer.

SECTION 4.—TRANSFER AUTHORIZATION

This section relates to the transfer process itself. Under subsection (a)(1), the Secretary of Transportation shall transfer the Alaska Railroad to the State without monetary consideration as soon as possible after four specified certifications are made. The transfer is to be made by one deed of conveyance, and the date of transfer is to be the date the deed is delivered to the State.

Subsection (a)(2)(A) sets forth the specifics of the deed of conveyance. The deed is to convey possession and legal title to the State of all the railroad properties. The track right-of-way is to be transferred in fee simple. In addition, the other railroad properties later determined not to be equitably owned by a third party are to be transferred in fee.

The deed is to include a warranty from the Federal Government as to the interests being transferred. This warranty in essence operates as title insurance: the Federal Government is to reimburse the State for its loss if there is a conflicting claim which diminishes the State interest in rail properties. The warranty applies to the fee interest transferred in the rights-of-way, and also in those properties determined by the DOI to be free of third-party claims but later determined by a court to be subject to a valid claim.

This subsection also requires that the deed expressly transfer to the State all reservations for the Alaska Railroad withheld from Federal patents or other title documents under authority of the March 12, 1914 Alaska Railroad Act, other than unexercised reservations for the expansion of the railroad. For example, the reservation for a railroad right-of-way in a homestead patent is to be transferred to the State, thereby creating the same title in the State as that currently held by the United States for the railroad. It is intended that these reservations pass to the State even if by ministerial error they are not expressed in a particular titled document—such reservations are nevertheless effective by direct operation of the March 12, 1914 act.

Under subsection (a)(2)(B), the Park Service will be able to continue to use and occupy, through the Secretary of Interior, a small tract at Talkeetna, Alaska. The tract is currently used for certain park activities, including those related to hiking and climbing. The Committee believes that the Secretary of Interior should continue to employ these lands for this use so long as railroad operations are unimpaired. In this unlikely event, it is incumbent upon the State to demonstrate interference with railroad operations in order to obtain a right of re-entry.

The deed, under subsection (a)(2)(C), is also to reserve to the Secretary of Interior a right-of-way and easement in the Denali National Park and Preserve in order to administer the Park and carry out attendant responsibilities. Again, these rights are granted so long as they do not unreasonably interfere with the operation of the railroad.

With respect to the required certification, the Secretary of Transportation is to find under subsection (b)(1) that the Senate will operate the railroad as a rail carrier in intrastate and interstate commerce. In addition, the Secretary is to certify under subsection (b)(2) that the State will assume the rights, liabilities and obligations of the railroad. However, the State will not be responsible for claims and causes of action accruing on or before the date of transfer, or judgments rendered before the transfer, except those tort actions which result in claims of less than $2,500.

Under subsection (b)(3) of this section, the Secretary must find that the State has established specified employee protection arrangements to apply during the 2-year period after the date of transfer. For those employees who choose to transfer to the State-owned railroad, the State must ensure their retention in their same positions, and unless otherwise agreed to, at least at the same level of compensation in effect at the time of the transfer.

These provisions are not to apply to those employees who are reassigned, retired, or separated for cause or lack of work. Nor are these provisions to apply to the officers of the railroad, defined as the general manager, assistant general manager, assistant to the general manager, chief of administration, and chief counsel, whom the State is not required to retain in their present positions. However, unless there has been a reassignment, the State is required to pay compensation to them equivalent to the level in effect on the day before the transfer, and such sum is to be in the form of a one-time severance payment.

Also under this subsection, the State is to continue existing collective bargaining agreements during this 2-year period unless otherwise agreed to. This section further provides that these agreements are to be renegotiated during this period unless otherwise agreed to, and that they are to expire at the end of the 2-year period.

Finally with respect to the employees, the State is to ensure that certain Federal benefits are retained. These include accrued leave, insurance, seniority rights, and cost-of-living increases. Also, those employees who are transferred to the State-owned railroad but terminated or laid off during the 2-year transition period shall be entitled to priority of reemployment in the railroad, and prior Federal service is to be counted in determining seniority for such purposes.

The fourth certification requirement is provided in subsection (b)(4). It ensures that the State will allow the Secretary of Transportation access to the employees and records of the railroad as needed to carry out the remaining Federal responsibilities connected with the transfer.

SECTION 5.—TRANSITION PERIOD

This section sets forth the activities which are to occur, or are not to occur, during the period between the enactment of this legislation and the date of transfer. Subsection (a) of this section provides for joint submission by the Secretary of Transportation and the Governor of Alaska, no later than 6 months after enactment, of a report which describes in appropriate detail the rail properties of the railroad, the liabilities and obligations to be assumed by the State, and the sum of money, if any, in the Alaska-Railroad Revolving Fund to be used by the Federal Government in carrying out its remaining responsibilities. With respect to real property, the Committee understands that the type of description contained in the mandated report will be dependent on available title information.

Under subsection (b), the State shall have access to properties of, and records pertaining to, the railroad in order to evaluate and prepare for the transfer. Also, the Secretary is directed not to take certain actions relating to the transfer, sale, or lease of the railroad properties, or to the obligation of railroad monies, without the consent of the State.

Finally, subsection (c) directs the Secretary prior to transfer to ensure that the railroad's accounting practices and systems are capable of reporting the required data to the ICC. This action will facilitate the transition of the railroad to its status as a regulated rail carrier in intrastate and interstate commerce.

SECTION 6.—LANDS TO BE TRANSFERRED

This section sets forth the status of the rail properties to be transferred and provides for the orderly adjudication of valid existing rights to those properties. Subsection (a) establishes that the rail properties are to be transferred to the State subject to valid existing rights and are to be reconveyed in order to satisfy such claims. This subsection clarifies the current law with respect to satisfaction of these

claims under the ANCSA: rail properties which under this act are determined to be part of the "smallest practicable tract" under section 3(e) are not public lands and not subject to any claims. The properties transferred are specifically excluded from selection or conveyance provided under amendments to ANCSA relating to the Cook Inlet Regional Corporation, the Chugach Native Regional Corporation, and certain Eklutna Village Corporation selections provided for in the ANILCA.

Subsection (b) reinforces the Department of Interior's existing responsibility to adjudicate third-party claims and to issue written opinions and appropriate documents of title. Specifically, the Secretary of Interior is directed to complete the determination of smallest practicable tract under Section 3(e) of ANCSA within one year of the enactment of this legislation. In making this determination, the Secretary of Interior is directed to consider the findings and policies of this legislation, including the importance of transferring the right-of-way in fee to the continued operation of the railroad and the need for existing and future rights-of-way to conform to the existing physical characteristics of the railroad. The Committee believes that this determination is critical to the future of the railroad and must be made expeditiously.

Under subsection (c), any decision by the Secretary of Interior pursuant to this section is reviewable but only by a naction brought in the Federal District Court for Alaska, and is to be expedited. The State is allowed to participate in such an appeal, as well as in any agency proceeding. To ensure that the goals of this legislation are not frustrated, this section further provides that no injunctive or other relief can delay the transfer of the railroad or impede its operations. The Committee intends that relief to protect claims be fashioned so as to permit the railroad to substantially maintain its operations.

Lands among the rail properties are expressly excluded by subsection (d) from selection by Cook Inlet Region, Inc. (CIRI) and Chugach Natives, Inc. under 43 U.S.C. § 1611 and sections 1425 and 1430 of Public Law 96–487. The Committee has reviewed these provisions and finds no intent by Congress to create claims against the Alaska Railroad through the provisions of these acts. Thus, the Committee in this section deals with the claims of CIRI by affirming CIRI's inability to validly select railroad properties while ensuring that CIRI's overall ANCSA selection rights are expedited. Similarly, any conceivable interest in railroad properties that could be drawn from ANILCA amendments to ANCSA for Chugach Natives, Inc. and the Eklutna Village Corporation are extinguished in this legislation. The intent of the language in this subsection is to keep all railroad properties out of the pool of selection established for CIRI in a January 2, 1976 amendment to ANCSA.

Since the passage of Public Law 94–204 in 1976, incorporating the Cook Inlet Land Exchange Agreement (exchange agreement), the Secretary of Interior and the State of Alaska have been attempting to ensure that the land entitlement of CIRI under that complex provision is fulfilled in a manner consistent with the interests of the State, environmental concerns and concerns of other public and private entities.

In one of the integral parts of the exchange agreement, the "in-region pool" provision, the Secretary of Interior, in conjunction with the General Services Administrator, was charged with promptly identifying and creating a selection pool of federal lands within Cook Inlet Region. The transfer of the Alaska Railroad through this legislation would remove the properties from possible placement in the "in-region pool".

The Committee finds that the transfer of the railroad to the State can be made so that the equities remain for each of the parties to the exchange agreement. In order to accomplish this, the provisions in this section are necessary.

Transfer of the Alaska Railroad to the State potentially increases pressure on all participants to fulfill the entitlement embodied in the exchange agreement.

ANILCA amended ANCSA to allow for "in-region pool" selections to occur out of state. Since the existing exchange agreement already allows the Secretary of Interior the discretion to enlarge the "in-region pool" using out-of-region entitlement, the objective of this section is to reaffirm this secretarial discretion and make clear that out-of-state properties can be placed into the "in-region pool" as stated in the existing ANILCA amendments. Placement in the pool allows CIRI to negotiate with local governments to obtain the properties being surplused.

Utilization of CIRI's current statutory rights to obtain federal surplus property wherever located will be essential for fulfillment of its entitlement. Therefore, a more detailed provision is needed to ensure that properties will be made available. This section adjusts CIRI's current statutory right by specifically requiring that both the Secretary of Interior and CIRI obtain early notice of potentially available properties. Without such sections, properties are presently almost through with the General Service Administration's disposal process before CIRI even becomes aware of their existence for possible negotiation. The amendments also clarify the Secretary of Interior's authority to offer properties under his jurisdiction to CIRI as partial fulfillment of CIRI's entitlements.

Additionally, the amount of property within the "in-region pool" has been for various reasons far less than the agreed upon minimum amount required. On three separate occasions, the original deadline of January 15, 1978 has had to be extended to recognize this fact. To ensure fulfillment, section 6 lifts the deadline until the pool is complete but in no event later than July 15, 1987. This section recognizes the possibility that removal of the Alaska Railroad could slow completion of the pool on time.

Also, to increase the properties within Alaska that can be placed into "in-region pool", section 6 extends CIRI's present in-region surplus property priority statewide. The State and Federal interests here are protected by conclusive objection if an out-of-region property represents a demonstratable public purpose.

CIRI's out-of-region selection provision of the agreement prohibited CIRI's nominations of areas that in 1976 were the best estimate of those lands which were in the national interest to retain in public

ownership either under Federal or State control. Since that time, ANILCA has been enacted designating the national interest lands, and state selection interests areas have changed. This section would remove these outdated proscriptions for nominations and replace them with a prohibition for nomination with the four-systems' areas described in ANILCA. Veto rights of the Secretary and the State embodied in the exchange agreement would remain unchanged.

Furthermore, the Committee finds CIRI has been working closely with the State and Federal government fulfilling its out-of-region entitlement. Eventual fulfillment will probably involve an exchange whereby the State would convey title back to the Federal Government for reconveyance to CIRI. This section gives the Secretary authority to accept State title, reconvey it to CIRI, and to credit Alaska's statehood entitlement with an equivalent acreage total.

Finally, this section in subsection (e) provides that there shall be no claim to compensation for use of lands among those rail properties either ultimately conveyed by the United States to any person or received by the State and later reconveyed in satisfaction of valid existing rights. This provision is not designed to prevent any administrative or judicial action necessary to protect pending claims for waste during adjudication but prior to reconveyance of the lands.

SECTION 7.—EMPLOYEES OF THE ALASKA RAILROAD

Subsection (a) of this section provides that those employees who transfer to the State-owned railroad and who presently participate in the Federal Civil Service System, may continue to participate in this system so long as they continue to work for the State-owned railroad. However, as an alternative, the State-owned railroad may provide such employees with retirement benefits either in, or substantially equivalent to those benefits the State provides its employees under, the State retirement system. The reason for the alternative is to permit the State-owned railroad to avoid having to administer two separate retirement systems. At the same time, it ensures that employees will continue to have benefits equivalent to or better than what they are entitled to now. The section provides an exception to the state alternative program for those transferred employees who are entitled to retire under the federal retirement system within five years of the date of the transfer. These employees may elect to remain participants in the Federal system, even if the State chooses to provide other benefits.

Subsection (b) of this section provides that those Federal employees who choose not to transfer to the State-owned railroad at the time the railroad is transferred from the United States to the State shall be entitled to all of the normal rights and benefits under Federal law for discontinued employees.

Subsection (c) provides for similar protections for transferred employees whose employment with the State-owned railroad is involuntarily terminated during the 2-year period following the transfer. However, these employees are to look to the State at the time of such termination to cover the benefits that these employees

would have had under Federal law had they elected not to transfer to the State-owned railroad.

SECTION 8.—STATE OPERATION

Subsection (a) of this section provides that after the transfer, the State-owned railroad shall be subject to the same Federal laws, with some limited exceptions, as are other railroads, including the Interstate Commerce Act, the Federal antitrust laws, and the railroad safety laws. The limited exemptions are the Railroad Retirement Act, the Railway Labor Act, the Federal Employers' Liability Act, and the Railroad Unemployment Insurance Act. The reason for excluding the railroad from the application of these latter acts is that the Alaska Railroad is not now subject to them, and the State has in place similar statutes that would appropriately apply to the State-owned railroad. All FRA memoranda which sanction non-compliance with Federal railroad safety regulations in effect on the date of transfer shall continue in effect according to their terms as "waivers of compliance."

In addition, subsection (a) exempts the State-owned railroad from any State or local statute specifiying a minimum number of crew members that must be employed in connection with the operation of its trains.

Subsection (a) specifies that the state-owned railroad shall retain and manage its own revenues. The purpose of this provision is to avoid the need for annual appropriations by the State for the railroad.

Subsection (b) of this section requires the ICC to promulgate an expedited, modified procedure for providing the State-owned railroad a certificate of public convenience and necessity. The Committee expects the ICC to employ as a model the procedure used in granting certificates to publicly owned railroads created out of the Milwaukee and Rock Island railroad abandonments. The circumstances there were substantially the same as the case here with respect to the proposed disposition of the Alaska Railroad. This subsection also exempts ICC actions under this subsection from the National Environmental Policy Act and the Energy Policy and Conservation Act in order to ensure an expeditious process.

Subsection (c) of this section provides that the State-owned railroad shall be eligible to participate in Federal assistance programs on the same basis as other railroads, including that provided for by the Railroad Revitalization and Regulatory Reform Act (4–R Act).

Subsection (d) of this section provides that the railroad properties within the Denali National Park and Preserve shall as determined by the Secretary of the Interior be subject to Federal laws and regulations established for the protection of fish and wildlife and other park values. In making this determination, the Secretary is to consult with the Governor of Alaska. Moreover, any determination by the Secretary must be designed to avoid substantial interference with railroad operations. The Committee believes the Secretary must fully exercise his duty to preserve the resource values of Denali, and that this can be achieved without significant detriment to the State-owned railroad's use of its right-of-way through the Park and Preserve.

SECTION 9.—FUTURE RIGHTS-OF-WAY

This section contemplates future rights-of-way for expansion of the railroad. The Committee believes that expansion is important if the State is to develop the railroad into a transportation system fully responsive to the needs of its growing economy. The Committee strongly encourages the Secretaries of Transportation, Interior and Agriculture to facilitate expansion of the State-owned railroad to the greatest extent possible.

Subsection (a) provides that the State or State-owned railroad may request, pursuant to existing law, a right-of-way over Federal lands from the Secretary of Interior or the Secretary of Agriculture, as appropriate, in consultation with the Secretary of Transportation. The Committee intends that the Secretary of Transportation will provide the State with assistance in this endeavor.

Notwithstanding the requirements of existing law, rights-of-way must be granted pursuant to the conditions specified in this subsection relating to size, use, and payment. These specifications are derived from the historical characteristics of rights-of-way and incidental rights authorized under the 1914 Alaska Railroad Act. Thus, future rights-of-way are thereby made equivalent to the pretransfer rights-of-way of the Alaska Railroad. The Committee notes that the authority herein granted is not to be construed as foreclosing the State from establishing that easements by necessity or rights of access across Federal lands have been implicitly granted with the transfer of lands under this legislation.

Subsection (b) specifies that any rights-of-way granted under this section is subject to reversion as are the other transferred rail properties in the event that it is converted to a use preventing continued operation of the railroad within 5 years of the grant of such right-of-way.

SECTION 10.—REVERSION

This section provides for the reversion to the United States of the properties of the Alaska Railroad, if within 5 years of transfer such properties are converted to a use that would prevent the State-owned railroad from continuing to operate. As an alternative to the actual reversion of the properties, the State at its option may pay the United States an amount determined to be the value of the properties at the ime they were convered to a use preventing the railroad from operating. If the State-owned railroad abandons rail service over those rail properties located within the boundaries of Denali National Park, these properties shall become part of the National Park.

The purpose of this section is to protect hte Federal Government's financial investment in the Alaska Railroad, and its interest in the continued operation of the railroad in the future.

SECTION 11.—OTHER DISPOSITION

To ensure that the railroad is transferred from Federal ownership, this section authorizes the Secretary of Transportation to otherwise dispose of the railroad if satisfaction by the State of the four conditions under section 4 cannot be certified within a year of the delivery of the report mandated under section 5. Consistent with the concern

for continued rail service, this section directs the Secretary to give preference to a prospective owner who will continue to operate rail service.

SECTION 12.—M'KINLEY PARK STATION LANDS

This section deals with the disposition, upon transfer, of certain rail lands currently used in the administration of the Denali National Park and Preserve. Under subsection (a), certain specified land close to the McKinley Park Station is to be transferred to the Department of the Interior for administration of the Park. However, subsection (b) provides that certain land on either side of the track near the station shall not be so transferred as it is needed to continue certain rail-related operations.

SECTION 13.—APPLICABILITY OF OTHER LAWS

This section exempts actions taken under the legislation from the requirements of a number of Federal statutes, including the National Environmental Policy Act and those provisions of the Administrative Procedure Act not pertaining to judicial review. The reason for these exemptions is to ensure that the transfer porcess is not delayed.

This section also clarifies that actions taken under this legislation do not constitute a disposal of surplus Federal property or a revocation of withdrawals made from or confirmed for the Alaska Railroad under a number of specifically named and generally referenced land laws, including the Federal Land Policy and Management Act. These clarifications are necessary in order to ensure that the rail properties do not become available for entry or selection by third parties as a result of actions taken under the legislation.

SECTION 14.—CONFLICT WITH OTHER LAWS

This section provides that the provisions of this legislation shall govern in the event of any conflict between this legislation and any other law.

SECTION 15.—REPEAL AND AMENDMENT OF EXISTING

This section repeals the Alaska Railroad Enabling Act and other related laws, and makes conforming changes to other federal laws that mention the Alaska Railroad. These changes would become effective at the time of the transfer or at the time of any other disposition of the railroad pursuant to section 11 of this legislation.

SECTION 16.—SEPARABILITY

This section provides that if any section is held invalid, other sections shall not be affected.

Changes in Existing Law

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

THE ACT OF JANUARY 2, 1976 (PUBLIC LAW 94–204)

SECTION 12 OF THAT ACT

SEC. 12. (a) * * *
(b)(1)–(6) * * *
(7)(i) Until the obligations of the Secretary and the Administrator of General Services under [subsection 12(b)(6)] *section 12(b)* of this Act are otherwise fulfilled: (a) Cook Inlet Region, Incorporated, may, by crediting the amount established in subsection 12(b)(7)(ii), bid, as any other bidder for surplus property, wherever located, in accordance with the Federal Property and Administrative Services Act of 1949 (40 U.S.C. sec. 484), as amended. No preference right of any type will be offered to Cook Inlet Region Incorporated, for bidding for General Services Administration surplus property under this subparagraph and no additional advertising shall be required other than that prescribed in title 40, United States Code, section 484(e)(2) of the Federal Property and Administrative Services Act; (b) the Administrator of General Services may, at the discretion of the Administrator, tender to the Secretary any surplus property otherwise to be disposed of pursuant to 40 U.S.C. 484(e)(3) to be offered Cook Inlet Region, Incorporated for a period of 90 days so as to aid in the fulfillment of the Secretary's program purposes under the Alaska Native Claims Settlement Act: *Provided*, That nothing in this subsection 12(b)(7)(i)(b) shall be construed to establish, enlarge or diminish authority of the Administrator or the Secretary within the State of Alaska. If the Region accepts such property, it shall be in exchange for acres or acre-equivalents as provided in subparagraph I(C)(2)(e) of the document, referred to in subsection (b) of this section. Prior to any disposition under subsection 12(b)(7)(i)(b), the Administrator shall notify the governing body of the locality where such property is located and any appropriate State agency, and no such disposition shall be made if such governing body or State agency, within ninety days of such notification formally advises the Administrator that it objects to the proposed disposition.

(ii) Notwithstanding subsection (i) of this paragraph and any other provision of law or any implementing regulation inconsistent with this subsection, until the obligations of the Secretary and the Administrator of General Services under this subsection are otherwise fulfilled:

(A) Before reporting any real property, wherever located, under his control to be excess to the needs of the Department of the Interior, the Secretary shall notify Cook Inlet Region, Incorporated, that such property is available at such time for conveyance to Cook Inlet Region, Incorporated, upon negotiated sale or change, and the Secretary is authorized to convey such property;

(B) Concurrently with the commencement of screening of any excess real property, wherever located, for utilization by Federal agencies, the Administrator of General Services shall notify the Secretary and Cook Inlet Region, Incorporated, that such property is available for conveyance to Cook Inlet Region, Incorporated, upon negotiated sale or exchange pursuant to this subsection. Within thirty days of the date of such notice, Cook In-

let Region, Incorporated, may advise the Secretary, and the Secretary may advise the Administrator, that there is a tentative need for the property to fulfill the obligations established under this subsection. Upon receipt of such notice from the Secretary, the Administrator shall suspend any disposition of the property for 60 days, to permit the Secretary and Cook Inlet Region, Incorporated, to negotiate terms of sale of the property to Cook Inlet Region, Incorporated. If such terms are agreed upon, the Secretary shall promptly request that the Administrator of General Services transfer the property to the Secretary for such disposition. Such request shall be considered by the Administrator, along with any other requests by Federal agencies. If the Administrator determines that the property should be so disposed of, the Administrator shall promptly transfer the property to the Secretary for such disposition.

(C) No disposition or conveyance of property under this subsection to Cook Inlet Region, Incorporated, shall be made unless the Administrator, after such consultation with State and local officials as is customary in the disposition of excess property, shall determine that there is no State and local priority for such property recognized by law.

(D) As used in this subsection, "real property" means any land or interests in land owned or held by the United States or any Federal agency, any improvements on such land or rights to their use or exploitation, and any personal property related to the land.

(E) If Cook Inlet Region, Incorporated, accepts any conveyances under subclauses (A) or (B) of this subsection, it shall be in exchange for acres or acre-equivalents as provided in subparagraph 1(C)(2)(e) of the document referred to in this section.

[(ii)] *(iii)* The Secretary of the Treasury shall establish a Cook Inlet Region, Incorporated [surplus] property account, which shall be available for the purpose of bidding on Federal surplus property *or paying for the conveyance of property pursuant to subsection (i) and (ii)*. The balance of the account shall be *the sum of (1)* the acre-equivalent exchange value established by paragraph [I(C)(2)(e)] *I(C)(2)(e)(iii)(A)* of the document referred to in this subsection, of the unfulfilled entitlement of Cook Inlet Region, Incorporated, the effective date of this subsection to acre or acre-equivalents under paragraph [I(C)(2)(g)] *I(C)* of the document referred to in this subsection [and shall be] *and (2) ½ the acre or acre-equivalent exchange value under such paragraph of the unfulfilled entitlement of Cook Inlet Region, Incorporated, on the same date to acres to be conveyed under paragraph (5) of this subsection* adjusted to reflect transfers or successful bids under [subsection 12(b)(6)] *section 12(b)* of this section.

[(iii)] *(iv)* The amount charged against the Treasury account established under [subsection (ii)] *subsection (iii)* shall be treated as proceeds of dispositions of surplus property for the purpose of determining the basis for calculating direct expenses pursuant to 30 U.S.C. 485(b), as amended.

[(iv)] *(v)* The basis for computing gain or loss on subsequent sale or other disposition of lands or interests in land conveyed to Cook Inlet Region, Incorporated, under this subsection, for purposes of any Federal, State or local tax imposed on or measured by income, shall be the fair value of such land or interest in land at the time of receipt. The amount charged against Cook Inlet's entitlement under I(C)(2)(e) of the document referred to in subsection (b) of this section shall be prima facie evidence of such fair value.

[(8) Cook Inlet Region, Incorporated, the Secretary and/or the Administrator shall have until July 15, 1982, to complete the nomination of lands for the pool described in subsection 112(b)(6): Provided, however, That the Secretary shall report to Congress on January 15, 1982, as to:

[(i) Such studies and inquiries as shall have been initiated by the Secretary and the Administrator of General Services, or have been prepared by other holding agencies, to determine what lands, within the exterior boundaries of the Cook Inlet Region, or elsewhere can be made available to the Cook Inlet Region, Incorporated, to the extent of its entitlement;

[(ii) The feasibility and appropriate nature of reimbursement to Cook Inlet Region, Incorporated, for its unfulfilled entitlement as valued in paragraph I(C)(2)(e) of the document referred to in this subsection;

[(iii) The extent to which implementation to the mechanisms established in subsection 12(b)(7) promise to meet said unfulfilled commitment; and

[(iv) Such other remedial legislation on administrative action as may be needed.

[Any provision of law to the contrary notwithstanding, if the Region, the Secretary, and/or the Administrator of General Services do not complete the nomination of lands referred to in subparagraphs (5) and (6) of this subsection by the dates set in subparagraphs I(C)(1)(b) and I(C)(2)(a) of the document referred to in this subsection, then, and in that event, these dates shall hereby automatically be extended by operation of this subsection for thirty-six months beyond the period set in section 3(a of Public Law 95–178.]

(8) Notwithstanding any provisions of law or implementing regulation inconsistent with this section:

(i) The deadlines in subparagraphs 1(C)(2)(a) and (g) of the document referred to in this section shall be extended until the Secretary's obligations under this section are fulfilled: Provided, That: (A) the obligation of the Secretary under subparagraph 1(C)(2)(a) of such document shall terminate on such date, after July 15, 1984, as the Secretary has fulfilled his obligation under subparagraph 1(C)(2)(g) of that document; and (B) the authority of the Secretary undersubparagraph 1(C)(2)(b) of such document to contribute to the pool created under subparagraph 1(C)(2)(a) of such document shall terminate: (a) on July 15, 1984, if, by that date, the Secretary has fulfilled his obligation under subparagraph 1(C)(2)(g), or (b) if not, on such date after July 15, 1984 as such obligation is fulfilled, or (c) if such obligation remains unfulfilled, on July 15, 1987. Nothing in this sub-

section shall affect such obligation as the Secretary may have under subparagraph 1(C)(2)(a) of such document with respect to any military reservation within the boundaries of Cook Inlet Region, Incorporated, and such obligation shall continue until the Secretary's obligations under this section are fulfilled: Provided, however, That the Secretary may not include any property of the Alaska Railroad in the pool of lands made available for selection as a result of the extension unless and until such inclusion is agreed to by the State of Alaska or the State-owned railroad.

(ii) In addition to such other reviews of Federal installations as may be required under existing law, the Secretary shall identify for inclusion in the pool all public lands, as described in subparagraph 1(c)(2)(a)(v) of the document referred to in this section, and shall, in so doing, review all Federal installations within the boundaries of Cook Inlet Region, Incorporated, whether within or without the areas withdrawn pursuant to section 11 of the Alaska Native Claims Settlement Act or by the Secretary acting under authority contained in that section: Provided, That no such additional review under such subparagraph shall be required of the property of the Alaska Railroad, of military installations, or of such other installations as may be mutually excluded from review by Cook Inlet Region, Incorporated, and the Secretary.

(iii) The concurrence required of the State as to the inclusion of any property in the pool under subparagraph 1(C)(2)(b) of the document referred to in this section shall be deemed obtained unless the State provides the Secretary and Cook Inlet Region, Incorporated, within 90 days of the date of notice a written finding that the parcel is required by the State for a public purpose.

(iv) On or before January 15, 1984, the Secretary shall report to Congress with respect to:

(A) Such studies and inquiries as shall have been initiated by the Secretary and the Administrator of General Services, or have been prepared by other holding agencies, to determine what lands, except for lands held by the Alaska Railroad, within the exterior boundaries of the Cook Inlet Region, Incorporated, whether within or without an area ever withdrawn pursuant to section 11 of the Alaska Native Claims Settlement Act or by the Secretary acting under authority contained in that section, or elsewhere can be made available to the Cook Inlet Region, Incorporated, to the extent of its entitlement;

(B) The feasibility and appropriate nature of reimbursement to Cook Inlet Region, Incorporated, for its unfulfilled entitlement as valued in subparagraph 1(C)(2)(e) of the document referred to in this section;

(C) The extent to which implementation of the mechanisms established in section 12(b)(7) promise to meet such unfulfilled commitment;

(D) Such other remedial legislation or administrative action as may be needed; and

(E) The need to terminate any mechanism established by law through which the entitlement of Cook Inlet Region, Incorporated, may be completed.

(9) No conveyance resulting from any sale or exchange pursuant to this section shall be considered to result in any revenues for any purpose set out in this Act.

(10) For the purpose of its incorporation into this section, paragraph 1(C)(1) of the document referred to in this section is amended as follows: (1) by striking "withdrawn under sections 11(a)(1), 11(a)(3), or 17(d)(1)"; (2) by adding after the first period the following: "Federal public lands, as used herein, shall include lands tentatively approved for patent or patented to the State under the Alaska Statehood Act or the Mental Health Enabling Act of 1956 if such lands are reconveyed to the United States. Land selected by the State not otherwise eligible for inclusion in the pool under the document referred to in this section may be nominated by Cook Inlet Region, Incorporated, for inclusion in the pool, and may be conveyed to Cook Inlet Region, Incorporated, upon relinquishment of the selection by the State."; and (3) by striking the last sentence of subparagraph 1(C)(1)(a) and inserting in lieu thereof the following: "Cook Inlet Region, Incorporated, shall not nominate any lands within the boundaries of any conservation system unit, national conservation area, national recreation area, national forest or defense withdrawal. Any lands nominated by Cook Inlet Region, Incorporated, that were made available to the State for selection pursuant to sections 2 and 5 of the State-Federal Agreement of September 1, 1972 cannot be conveyed to Cook Inlet Region, Incorporated, without the consent of the the State.".

(11) Notwithstanding the provisions of section 906 of this Act, the State is hereby authorized to convey to the United States for reconveyance to Cook Inlet Region, Incorporated, and the Secretary is directed to accept (i) lands tentatively approved for patent or patented to the State, or (ii) relinquished State selections of lands selected prior to July 18, 1975, if either such category of lands are nominated by Cook Inlet Region, Incorporated, under paragraph 1(C)(1) of the document referred to in this section. The acreage of lands conveyed to the United States under this provision shall be added to the State's unfulfilled entitlement pursuant to section 6 of the Alaska Statehood Act (Public Law 85–508).

* * * * * * *

On the date of transfer of rail properties or other disposition pursuant to the provisions of the bill, the following changes to existing law will occur:

THE ACT OF MARCH 12, 1914

[That the President of the United States is empowered, authorized, and directed to adopt and use a name by which to designate the railroad or railroads and properties to be located, owned, acquired, or operated under the authority of this Act; to employ such officers, agents, or agencies, in his discretion, as may be necessary to enable him to carry out the purposes of this Act; to authorize and require such officers, agents, or agencies to perform any or all of the duties imposed upon him by the terms of this Act; to detail and require any officer or officers in the Engineer Corps in the Army or Navy to perform service under this Act; to fix the compensation of all officers, agents, or em-

ployees appointed or designated by him; and, notwithstanding any other provision of law or regulation, to fix relocation, travel and transportation expenses for the General Manager of the railroad designated under this Act to designate and cause to be located a route or routes for a line or lines of railroad in the Territory of Alaska not to exceed in the aggregate one thousand miles, to be so located as to connect one or more of the open Pacific Ocean harbors on the southern coast of Alaska with the navigable waters in the interior of Alaska, and with a coal field or fields so as best to aid in the development of the agricultural and mineral or other resources of Alaska, and the settlement of the public lands therein, and so as to provide transportation of coal for the Army and Navy, transportation of troops, arms, munitions of war, the mails, and for other governmental and public uses and for the transportation of passengers and property; to construct and build a railroad or railroads along such route or routes as he may so designate and locate, with the necessary branch lines, feeders, sidings, switches, and spurs; to purchase or otherwise acquire all real and personal property necessary to carry out the purposes of this Act; to exercise the power of eminent domain in acquiring property for such use, which use is declared to be a public use, by condemnation in the courts of Alaska in accordance with the laws now or hereafter in force there; to acquire rights of way, terminal grounds, and all other rights; to purchase or otherwise acquire all necessary equipment for the construction and operation of such railroad or railroads; to build or otherwise acquire docks, wharves, terminal facilities, and all structures needed for the equipment and operation of such railroad or railroads; to fix, change, or modify rates for the transportation of passengers and property, which rates shall be equal and uniform, but no free transportation or passes shall be permitted except that the provisions of the interstate commerce laws relating to the transportation of employees and their families shall be in force as to the lines constructed under this Act; and except also that the issuance of passes to ministers of religion, traveling secretaries of Railroad Young Men's Christian Associations, and persons exclusively engaged in charitable and eleemosynary work when engaged in their work in Alaska; to indigent, destitute, and homeless persons, inmates of hospitals and charitable and eleemosynary institutions, and to such persons when transported by charitable societies or hospitals, and the necessary agents employed in such transportations; to newsboys on trains, persons injured in wrecks and physicians and nurses attending such persons; the interchange of passes for the officers, agents, and employees of common carriers, and their families; and the carrying of passengers free with the object of providing relief in cases of general epidemic, pestilence, or other calamitous visitation is permitted; to receive compensation for the transportation of passengers and property, and to perform generally all the usual duties of a common carrier by railroad; to make and establish rules and regulations for the control and operation of said railroad or railroads; in his discretion, to lease the said railroad or railroads, or any portion thereof, including telegraph and telephone lines, after completion under such terms as he may deem proper, but no lease of such railroad or railroads shall be for a longer period than twenty years and no other lease authorized in this act shall be for a

longer period than fifty-five years or in the event of failure to lease, to operate the same until the further action of Congress: Provided, if said railroad or railroads, including telegraph and telephone lines, are leased under the authority given then and in that event they shall be operated under the jurisdiction and control of the provisions of the interstate commerce laws; to purchase, condemn, or otherwise acquire upon such terms as he may deem proper any other line or lines of railroad in Alaska which may be necessary to complete the construction of the line or lines of railroad designated or local by him: Provided, The price to be paid in case of purchase shall in no case exceed the actual physical value of the railroad; to make contracts or agreements with any railroad or steamship company or vessel owner for joint transportation of passengers or property over the road or roads herein provided for, and such railroad or steamship line or by such vessel, and to make such other contracts as may be necessary to carry out any of the purposes of this Act; to utilize in carrying on the work herein provided for any and all machinery, equipment, instruments, material, and other property of any sort whatsoever used or acquired in connection with the construction of the Panama Canal, so far and as rapidly as the same is no longer needed at Panama, and the Isthmian Canal Commission is hereby authorized to deliver said property to such officers or persons as the President may designate, and to take credit therefor at such percentage of its original cost as the President may approve, but this amount shall not be charged against the fund provided for in this Act.

[Any security officer employed to protect life and property on the railroad is authorized to maintain law and order, to carry firearms, and to make arrests on railroad property with a warrant for any offense committed against the laws of the United States, and to make arrests without a warrant for any offense committed upon property of the railroad if there is reasonable ground to believe that the offense constitutes a felony under the laws of the United States and the person to be arrested has committed or is committing the felony.

[The authority herein granted shall include the power to construct, maintain, and operate telegraph and telephone lines so far as they may be necessary or convenient in the construction and operation of the railroad or railroads as herein authorized and they shall perform generally all the usual duties of telegraph and telephone lines for hire.

[Terminal and station grounds and rights of way through the lands of the United States in the Territory of Alaska are granted for the construction of railroads, telegraph and telephone lines authorized by this Act [43 USCS §§ 975–975g], and the President may, in such manner as he deems advisable, make reservation of such lands as are or may be useful for furnishing materials for construction and for stations, terminals, docks, and for such other purposes in connection with the construction and operation of such railroad lines as he may deem necessary and desirable.

[In all patents for lands taken up, entered, or located in Alaska hereafter taken up, there shall be expressed that there is reserved to the United States a right of way for the construction of railroads, telegraph and telephone lines to the extent of one hundred feet on either side of the center line of any such road and twenty-five feet on either side of the center line of any such telegraph or telephone lines.

[All moneys derived from hte lease, sale, or disposal of any of the public lands, including townsites, in Alaska, or the coal or mineral therein contained, or the timber thereon, and the earnings of said railroad or railroads, together with the earnings of the telegraph and telephone lines constructed under authority of this Act, above maintenance charges and operating expenses, shall be paid into the Treasury of the United States as other miscellaneous receipts are paid, and a separate account thereof shall be kept and annually reported to Congress.

[It is the intent and purpose of Congress through this Act to authorize and empower the President of the United States, and he is fully authorized and empowered through such officers, or agencies as he may appoint or employ, to do all necessary acts and things in addition to those specially authorized in this Act to enable him to accomplish the purposes and objects of this Act.

[The officers, agents, or agencies placed in charge of the work by the President shall make to the President annually, and at such other periods as may be required by the President or by either House of Congress, full and complete reports of all their acts and doings and of all moneys received and expended in the construction of said work and in the operation of said work or works and in the performance of their duties in connection therewith. The annual reports herein provided shall be by the President transmitted to Congress.]

The Act of June 24, 1946

[That funds available for the operation of the Alaska Railroad shall be available for maintenance and operation of river steamers and other boats on the Yukon River and its tributaries in Alaska; for purchase of stores for resale; and for payment of claims for losses and damages arising from operations, including claims of employees of the railroad for loss and damage resulting from wreck or accident on said railroad, not due to negligence of the claimant, limited to clothing and other necessary personal effects used in connection with his duties and not exceeding $100 in value.]

The Act of July 19, 1932

[That in order to prevent monopoly and to insure the continuance of two or more operating coal mines in the Territory of Alaska adjacent to the Alaska Railroad, the general manager of the Alaska Railroad with the approval of the Secretary of the Interior is hereby authorized to purchase coal annually for the railroad from two or more operating companies in that area at such reasonable price or prices as may be fixed and determined by said Secretary.]

The Department of Transportation Act

Section 6 of that Act

Sec. 6. (a)–(h) * * *

[(i) The administration of the Alaska Railroad, established pursuant to the Act of March 12, 1914, as amended (38 Stat. 308), and all of the functions authorized to be carried out by the Secretary of

the Interior pursuant to Executive Order Numbered 11107, April 25, 1963 (28 F.R. 4225), relative to the operation of said Railroad, are hereby transferred to and vested in the Secretary of Transportation who shall exercise the same authority with respect thereto as is now exercised by the Secretary of the Interior pursuant to said Executive order.]

TITLE 5, UNITED STATES CODE

SECTION 305 OF THAT TITLE

§ 305. Systematic agency review of operations

(a) For the purpose of this section, "agency" means an Executive agency, but does not include—

(1) a Government controlled corporation;
(2) the Tennessee Valley Authority;
[(3) The Alaska Railroad;]
[(4)] (*3*) the Virgin Islands Corporation;
[(5)] (*4*) Atomic Energy Commission;
[(6)] (*5*) the Central Intelligence Agency;
[(7)] (*6*) the Panama Canal Commission; or
[(8)] (*7*) the National Security Agency, Department of Defense.

(b)–(c) * * *

SECTION 5102 OF THAT TITLE

§ 5102. Definitions; application

(*a*) For the purpose of this chapter—

(1) "agency" means—
(A) an Executive agency;
(B) the Administrative Office of the United States Court;
(C) the Library of Congress;
(D) the Botanic Garden;
(E) the Government Printing Office;
(F) the Office of the Architect of the Capitol; and
(G) the government of the District of Columbia;
but does not include—
(i) a government controlled corporation;
(ii) the Tennessee Valley Authority;
[(iii) The Alaska Railroad;]
[(iv)] (*iii*) the Virgin Islands Corporation;
[(v)] (*iv*) the Atomic Energy Commission;
[(vi)] (*v*) the Central Intelligence Agency;
[(vii)] (*vi*) the Panama Canal Commission;
[(viii)] (*vii*) the National Security Agency, Department of Defense, or
[(ix)] (*viii*) the General Accounting Office;

(2) "employee" means an individual employed in or under an agency;

(3) "position" means the work, consisting of the duties and responsibilities, assignable to an employee;

(4) "class" or "class of positions" includes all positions which are sufficiently similar, as to—

(A) kind or subject-matter of work;
(B) level of difficulty and responsibility; and
(C) the qualification requirements of the work;
to warrant similar treatment in personnel and pay administration; and

(5) "grade" includes all classes of positions which, although different with respect to kind or subject-matter of work, are sufficiently equivalent as to—
(A) level of difficulty and responsibility; and
(B) level of qualification requirements of the work;
to warrant their inclusion within one range of rates of basic pay in the General Schedule.

(b)–(d) * * *

SECTION 3401 OF THAT TITLE

§ 3401. Definitions

For the purpose of this chapter—

(1) "agency" means—
(A) an Executive agency;
(B) a military department;
(C) an agency in the judicial branch;
(D) the Library of Congress;
(E) the Botanic Garden; and
(F) the Office of the Architect of the Capitol; but does not include—
(i) a Government controlled corporation;
(ii) the Tennessee Valley Authority;
[(iii) the Alaska Railroad;]
[(iv)] (*iii*) the Virgin Island Corporation;
[(v)] (*iv*) the Panama Canal Company;
[(vi)] (*v*) the Federal Bureau of Investigation, Department of Justice;
[(vii)] (*vi*) the Central Intelligence Agency; and
[(viii)] (*vii*) the National Security Agency, Department of Defense; and

(2) "part-time career employment" means part-time employment of 16 to 32 hours a week under a schedule consisting of an equal or varied number of hours per day, whether in a position which would be part-time without regard to this section or one established to allow job-sharing or comparable arrangements, but does not include employment on a temporary or intermittent basis.

SECTION 5342 OF THAT TITLE

§ 5342. Definitions; application

(a) For the purpose of this subchapter—

(1) "agency" means an Executive agency; but does not include—
(A) a Government controlled corporation;
(B) the Tennessee Valley Authority;
[(C) the Alaska Railroad;]

[(D)] (*C*) the Virgin Islands Corporation;
[(E)] (*D*) the Atomic Energy Commission;
[(F)] (*E*) the Central Intelligence Agency;
[(G)] (*F*) the Panama Canal Commission;
[(H)] (*G*) the National Security Agency, Department of Defense;
[(I)] (*H*) the Bureau of Engraving and Printing, except for the purposes of section 5349 of this title; or
[(J)] (*I*) the General Accounting Office;

(2)–(3) * * *

(b)–(c) * * *

SECTION 7327 OF THAT TITLE

§ 7327. Political activity permitted; employees residing in certain municipalities

[(a) Section 7324(a)(2) of this title does not apply to an employee of the Alaska Railroad who resides in a municipality on the line of the railroad in respect to political activities involving that municipality.]

[(b)] The Civil Service Commission may prescribe regulations permitting employees and individuals to whom section 7324 of this title applies to take an active part in political management and political campaigns involving the municipality or other political subdivision in which they reside, to the extent the Commission considers it to be in their domestic interest, when—

(1) the municipality or political subdivision is in Maryland or Virginia and in the immediate vicinity of the District of Columbia, or is a municipality in which the majority of voters are employed by the Government of the United States; and

(2) the Commission determines that because of special or unusual circumstances which exist in the municipality or political subdivision it is in the domestic interest of the employees and individuals to permit that political participation.

THE RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976

SECTION 102 OF THAT ACT

DEFINITIONS

SEC. 102. As used in this Act, unless the context otherwise indicates, the term—

(1) "Association" means the United States Railway Association;

(2) "Commission" means the Interstate Commerce Commission;

(3) "Corporation" means the Consolidated Rail Corporation;

(4) "final system plan" means the final system plan and any additions thereto adopted by the Association pursuant to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.)

(5) "includes" and variants thereof should be read as if the phrase "but is not limited to" were also set forth;

(6) "Office" means the Rail Services Planning Office of the Commission;

(7) "railroad" means a common carrier by railroad or express, as defined in section 1(3) of the Interstate Commerce Act (49 U.S.S. 1(3)), and includes the National Railroad Passenger Corporation [and the Alaska Railroad]; and

(8) "Secretary" means the Secretary of Transportation or his designated representative.

TITLE 49, UNITED STATES CODE

SECTION 10749 OF THAT TITLE

§ 10749. Exchange of services and limitation on use of common carriers by freight forwarders

(a) * * *

(b) A freight forwarder providing service subject to the jurisdiction of the Commission under subchapter IV of chapter 105 of this title may use a carrier, including a carrier referred to in this subsection, to transfer, collect, or deliver in a terminal area. However, to provide other services, a freight forwarder may only use—

(1) a rail, express, motor, or water common carrier, or motor contract carrier of property, providing transportation subject to the jurisdiction of the Commission under chapter 105 of this title including—

(A) a motor common carrier providing exempt transportation under section 10525 or 10526(a)(8) of this title; or

(B) a water common carrier, or motor contract carrier of property, providing exempt transportation under section 10542(a) of this title or transportation between places in Alaska or Hawaii and between those places and other places in the United states; *or*

(2) an air carrier subject to the jurisdiction of the Civil Aeronautics Board under chapter 20 of this title [; or].

[(3) the Alaska Railroad.]

The Public Health Service Act

SECTION 324 OF THAT ACT

Sec. 324. (a) The Surgeon General is authorized to provide at institutions, hospitals, and stations of the Service medical, surgical, and hospital services and supplies for persons entitled to treatment under the United States Employees' Compensation Act and extensions thereof. The Surgeon General may also provide for making medical examinations of—

(1) [employees of the Alaska Railroad and] employees of the Federal Government for retirement purposes;

(2) employees in the Federal classified service, and applicants for appointment, as requested by the Civil Service Commission for the purpose of promoting health and efficiency;

(3) seamen for purposes of qualifying for certificates of service; and

(4) employees eligible for benefits under the Longshoremen's and Harbor Workers' Compensation Act, as amended (U.S.C., 1940 edition, title 33, chapter 18), as requested by any deputy commissioner thereunder.

(b) * * *

THE ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

SECTION 202 OF THAT ACT

SEC. 202. The following units of the National Park System are hereby expanded:

(1) * * *

(2) * * *

(3) Denali National Park. (a) Mount McKinley National Park, by the addition of an area containing approximately two million four hundred and twenty-six thousand acres of public land and approximately one million three hundred and thirty thousand acres of additional public land is hereby established as Denali National Preserve, both as generally depicted on map numbered DENA–90,007, and dated July 1980 and the whole is hereby redesignated as Denali National Park and Preserve. The park additions and preserve shall be managed for the following purposes, among others: To protect and interpret the entire mountain massif, and additional scenic mountain peaks and formations; and to protect habitat for, and populations of fish and wildlife including, but not limited to, brown/grizzly bears, moose, caribou, Dall sheep, wolves, swans and other waterfowl; and to provide continued opportunities, including reasonable access, for mountain climbing, mountaineering and other wilderness recreational activities. [That portion of the Alaska Railroad right-of-way within the park shall be subject to such laws and regulations applicable to the protection of fish and wildlife and other park values as the Secretary, with the concurrence of the Secretary of Transportation, may determine.] Subsistence uses by local residents shall be permitted in the additions to the park where such uses are traditional in accordance with the provisions in title VIII.

(b)–(c) * * *

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